

OPINION
50-23

May 31, 1950 (OPINION)

CITIES

RE: Lease of Room

I am in receipt of your letter of May 23, 1950.

You state that in view of the fact that the city hall has become inadequate, that the city of Parshall wishes to buy or lease a room in the memorial building for holding council meetings.

You wish to know if this is within the power of the municipality. You also wish to know if the Memorial Hall Association is prohibited from entering into such an agreement.

You say that the city is contemplating a long-time lease at an agreed figure of \$2000.00.

Section 48-0801 N.D.R.C. 1943, provides:

RENTAL OF HALL AND PROVISION OF FUNDS THEREFOR BY TAXATION. The city council or board of city commissioners of any city, the board of trustees of any village, the board of supervisors of any township, or the school board of any school district, in this chapter designated as the governing board, may pay the rental of any hall or auditorium, when the same shall be used in such municipality for any public meeting or purpose and no charge is made for admission thereto, and annually may provide by taxation a sum sufficient to defray any such expense for rental as may be anticipated for the coming year. This section shall not apply to any city where there exists a public hall owned by the municipality suitable for the purpose.

Subsection 55 of section 40-0501, N.D.R.C. 1943, provides:

55. REAL AND PERSONAL PROPERTY. To acquire by lease, purchase, gift, condemnation, or other lawful means and to hold in its corporate name for use and control as provided by law, both real and personal property and easements and rights-of-way within or without the corporate limits for all purposes authorized by law or necessary to the exercise of any power granted;"

From the above-quoted sections it would appear that there is no doubt but that the city has the authority to lease a room in the memorial building in which to hold council meetings. And unless the Memorial Hall association is in some manner restricted to a specific use which would exclude the contemplated rental, there seems to be no reason why it should not be able to rent one of its room for a public purpose. You can easily see that if the present city hall were enlarged to provide a council room, or if a new city hall were constructed, that in such case the long-term lease for a council room in another building would be undesirable.

However, I do not believe that the city has authority to lease the room on a long-term basis. Section 48-0801, supra, seems to imply a lease from year to year with an annual tax levy to pay the rental, and only during a period when the city hall is not suitable.

WALLACE E. WARNER

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